

LEVINE SULLIVAN KOCH & SCHULZ, L.L.P.
 321 West 44th Street, Suite 510
 New York, NY 10036
 (212) 850-6100

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THE NEW YORK TIMES COMPANY
 Legal Department
 620 Eighth Avenue
 New York, NY 10018
 (212) 556-1558

SANDERS ORTOLI VAUGHN-FLAM ROSENSTADT, L.L.P.
 501 Madison Avenue, 14th Floor
 New York, NY 10022
 (212) 588-0022

80 ordered
 80 3/30/09
 ABY/LLT

IN THE UNITED STATES DISTRICT COURT
 FOR THE SOUTHERN DISTRICT OF NEW YORK

-----	x
THOMAS ALEXANDER DALLAL,	: 03 CV 10065 (AKH)
Plaintiff,	:
v.	:
THE NEW YORK TIMES COMPANY, THE	: <u>JOINT MOTION TO</u>
NEW YORK TIMES ELECTRONIC MEDIA	: <u>SUPPLEMENT THE</u>
COMPANY, TIMES COMPANY DIGITAL, INC.,	: <u>RECORD AND</u>
THE NEW YORK TIMES INFORMATION	: <u>MEMORANDUM IN</u>
SERVICE INC. and NEW YORK TIMES NEWS	: <u>SUPPORT THEREOF</u>
SERVICE,	:
Defendants.	:
-----	x

Plaintiff Thomas Alexander Dallal and defendants The New York Times Company, The New York Times Electronic Media Company, Times Company Digital, Inc., The New York Times Information Service Inc. and New York Times News Service (hereinafter collectively "the Parties"), by and through undersigned counsel and pursuant to Rule 5 of the Federal Rules of Civil Procedure and Rule 10(e) of the Federal Rules of Appellate Procedure, hereby jointly move

the Court for an Order supplementing the record in this action with the following designated correspondence between counsel and the Court.

As grounds therefore, the Parties state as follows:

(a) Leading up to and following the trial of this action, with the Court's permission, the Parties made various submissions via facsimile, electronic mail, or other direct delivery to the Chambers of the Honorable Alvin K. Hellerstein.

(b) Because of the method of transmission, these communications, which form part of the record in this action, have not been docketed or otherwise included in the case file maintained by the Clerk of the Court.

(c) The Parties have conferred and agree that the following correspondence – true and correct copies of which have been submitted herewith as Exhibits 1 through 20 – are appropriate to include within the official record of this Court and thereby to be reflected in the certified Record on Appeal:^{*}

1. EVF to AKH 6-5-2007 (with encl.)
2. EVF to AKH 10-17-2007 (with encl.)
3. RP to AKH 10-19-2007
4. EVF to AKH 10-19-2007
5. RP to AKH 11-16-2007 (with encl.)
6. AKH/SN to Counsel 11-16-2007
7. EVF to AKH 11-16-2007
8. EVF to AKH 11-19-2007 (with encl.)
9. RP to AKH 11-20-2007
10. EVF to AKH 11-20-2007 (with encl. & cover email from GZ to SN)
11. GZ to AKH 11-21-2007

* "EVF" refers to plaintiff's counsel Eric Vaughn-Flam; "AKH" refers to the Honorable Alvin K. Hellerstein; "RP" refers to defense counsel Robert Penchina; "SN" refers to Sheila Nagaraj, law clerk to Judge Hellerstein; and "GZ" refers to plaintiff's counsel Gena Zaiderman.

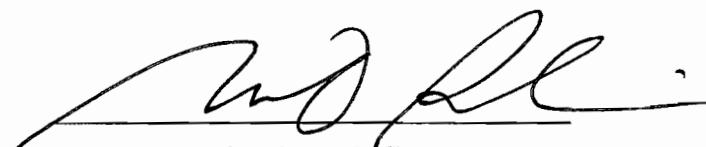
12. EVF to AKH 11-23-2007
13. RP to AKH 12-12-2007 (with encl.)
14. EVF to AKH 12-12-2007
15. EVF to AKH 12-17-2007
16. EVF to AKH 1-15-2008
17. RP to AKH 7-31-2008
18. EVF to AKH 7-31-2008 (with encl.)
19. EVF to AKH 12-29-2008 (with encl.)
20. JBO to AKH 1-7-2009

WHEREFORE, the parties respectfully request that the Court direct that these documents be docketed by the Clerk and deemed part of the record in this action.

Dated: New York, New York
March 26, 2009

Respectfully submitted,

LEVINE SULLIVAN KOCH & SCHULZ, L.L.P.



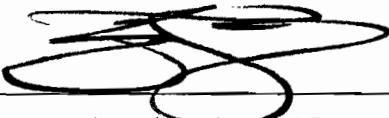
Robert Penchina (RP 5866)
Thomas Curley (*pro hac vice*)
John B. O'Keefe (*pro hac vice*)
321 West 44th Street, Suite 510
New York, NY 10036
(212) 850-6100

and

George Freeman, Esq. (GF 0038)
THE NEW YORK TIMES COMPANY
Legal Department
620 Eighth Avenue
New York, NY 10018
(212) 556-1558

Counsel for Defendants

SANDERS ORTOLI VAUGHN-FLAM
ROSENSTADT, L.L.P.



Eric Vaughn-Flam (EVF 0518)
501 Madison Avenue, 14th Floor
New York, NY 10022
(212) 588-0022

Counsel for Plaintiff

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) SS.
)

SCOTT BAILEY, being duly sworn, deposes and says as follows:

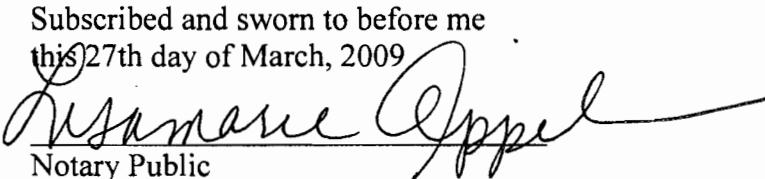
1. I am a legal assistant with the law firm of Levine Sullivan Koch & Schulz, L.L.P. I am not a party to this action, am over 18 years of age, and reside in Essex County, New Jersey.
2. On March 27, 2009, I caused a true copy of the Notice of Joint Motion to Supplement the Record, Joint Motion to Supplement the Record and Memorandum in Support Thereof, Exhibits 1-20 in Support of Same, and Proposed Order to be served by hand delivery upon:

Eric Vaughn-Flam, Esq.
Sanders Ortoli Vaughn-Flam Rosenstadt LLP
501 Madison Avenue, 14th Floor
New York, NY 10022



Scott Bailey

Subscribed and sworn to before me
this 27th day of March, 2009



LISAMARIE APPEL
Notary Public

LISAMARIE APPEL
Notary Public, State of New York
No. 01AP4869703
Qualified in Richmond County
Certificate Filed in New York County
Commission Expires Sept. 2, 2010